



Mack H Shumate, Jr.
Senior General Attorney, Law Department

March 20, 2009

224714

VIA E-FILING/U.P.S. OVERNIGHT

The Honorable Anne K. Quinlan
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423-0001

Re: Abandonment Exemption to Abandon Operations and Discontinue Service of the Capitol Drive Industrial Lead from M.P. 92.21 the Shoreline Connection to the end of the Line at M.P. 89.13 south of Hampton Avenue, a distance of 3.08 miles in Milwaukee County, Wisconsin; STB Docket No. AB-33 (Sub-No. 268X)

Dear Ms. Quinlan:

Pursuant to the Board's exemption procedures for abandonment of rail lines with no local business for at least two years (49 C.F.R. § 1152.50), I am hereby e-filing the Verified Notice of Exemption, including a Certificate of Service and Publication, the original of which is enclosed and sent to you via U.P.S. Overnight/Next Day Air for your reference.

Please file the Notice of Exemption in Docket No. AB-33 (Sub-No. 268X). Enclosed is a credit authorization voucher in the amount of \$3,700.00 for the filing fee.

Sincerely,

ENTERED
Office of Proceedings

MAR 20 2008

Part of
Public Record

FILED

MAR 20 2009

Attachment

**SURFACE
TRANSPORTATION BOARD**

cc: All Concerned Parties

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Before the
SURFACE TRANSPORTATION BOARD

Docket No AB-33 (Sub-No 268X)

**UNION PACIFIC RAILROAD COMPANY
– NOTICE OF EXEMPTION –
IN MILWAUKEE COUNTY, WISCONSIN
(CAPITOL DRIVE INDUSTRIAL LEAD)**

NOTICE OF EXEMPTION

UNION PACIFIC RAILROAD COMPANY

**Mack H. Shumate, Jr
Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
Tel. 312-777-2055
Fax 312-777-2065**

Dated March 20, 2009

Filed March 20, 2009

Before the
SURFACE TRANSPORTATION BOARD

Docket No AB-33 (Sub-No 268X)

UNION PACIFIC RAILROAD COMPANY
– NOTICE OF EXEMPTION –
IN MILWAUKEE COUNTY, WISCONSIN
(CAPITOL DRIVE INDUSTRIAL LEAD)

NOTICE OF EXEMPTION

Union Pacific Railroad Company ("UP") submits this verified Notice of Exemption pursuant to 49 C F R §1152, Subpart F – Exempt Abandonments and Discontinuances of Service and Trackage Rights, for an exempt abandonment of the Capitol Drive Industrial Lead from Milepost 92 21, the Shoreline connection to the end of the Line at Milepost 89 13 south of Hampton Avenue in the northeast Milwaukee area, a distance of 3 08 miles in Milwaukee County, Wisconsin (the "Line")

Proposed Consummation Date: 49 C.F.R. §1152.50 (d)(2)

The abandonment is proposed to be consummated on or after May 9, 2009 (at least 50 days after filing the Notice of Exemption)

Certification: 49 C.F.R. §1152.50(b)

UP certifies that no local traffic has moved over the Line for at least two years, and that no formal complaint filed by a user of rail service on the Line (or filed by a state or local governmental entity acting on behalf of such user) regarding cessation of service over the Line either is pending with this Board or any U S District Court or has

been decided in favor of the complainant within the two-year period. UP further certifies that there is no overhead traffic on the Line

Additional Information Required: 49 C.F.R. §1152.22(a)(1) (4), (7)-(8) and (e)(4)

(a) **General.**

(a)(1) The railroads' exact name is Union Pacific Railroad Company

(a)(2) UP is a common carrier by railroad subject to 49 U S C Subtitle IV, Chapter 105

(a)(3) UP intends to abandon the Line from Milepost 92 21, the Shoreline connection to the end of the Line at to Milepost 89 13 south of Hampton Avenue in the northeast Milwaukee area, a distance of 3 08 miles in Milwaukee County, Wisconsin

(a)(4) A map showing the location of the Line in conjunction with other rail lines, highways and major roads in the area is attached hereto as Exhibit A and hereby made a part hereof.

(a)(7) The representative to whom correspondence regarding this abandonment should be sent is

Mack H Shumate, Jr
Senior General Attorney
Union Pacific Railroad Company
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
Tel 312-777-2055
Fax 312-777-2065

(a)(8) **ZIP Code** The Line traverses U S Postal Service Zip Codes 53209, 53211, 53212 and 53217

(e)(4) **Rural and Community Impact.** The Line was constructed by the Green Bay, Milwaukee and Chicago Railway in 1855 The Line is currently constructed with 112 or 115-pound jointed rail; the date the track was laid is unknown

The right-of-way proposed for abandonment could be suited for other public purposes including conservation, energy transmission or recreation. It would probably not be suited for roads or highways as the surrounding area already has adequate public roadways. There is a pedestrian trail at the southern terminus of the Line. Once the Line is abandoned, some of the right-of-way could be used as a natural extension of that trail. According to the Property Schedule of the Railroad valuation maps, it appears that title to the right-of-way is non-reversionary in nature.

The abandonment will have no adverse effect on shippers. No local traffic has moved on the Line in at least two years, and there is no overhead traffic on the Line. No complaint regarding cessation of service has been submitted, is pending, or has been ruled upon in favor of a complainant in the last two years. After abandonment, the closest UP rail station will be provided to the north of the proposed abandonment on the Shoreline Subdivision near the junction with the Line at an operational point called Wiscona, or to the south in central Milwaukee. UP has several other lines in the Milwaukee area, which is also served by Canadian Pacific Railway, Wisconsin & Southern Railroad Company and Amtrak. The portion of the Milwaukee metropolitan area served by the Line is well served by numerous urban streets, Wisconsin Route 57 and Interstate 43. Milwaukee is also a Great Lakes port.

No railroad freight traffic moves over the Line and no railroad freight traffic is expected to move in the future, therefore, there should be no effect on regional or local transportation systems or patterns, and there will be no diversion to other modes or systems.

Labor Protection

The interests of railroad employees will be protected by the conditions discussed in Oregon Short Line Railroad Co. -- Abandonment -- Goshen , 360 ICC 91 (1979).

Certifications

Attached hereto as **Exhibit B** and hereby made a part hereof is a Certificate of Service and Publication pursuant to the notice requirements of 49 C F R §§1152.50(d)(1), 1105.11 and 1105.12

Environmental and Historic Report

A copy of the Transmittal Letter of UP's Combined Environmental and Historic Report containing the information required by 49 C F R. §§1105.7 (e) and 1105.8, and delivered in accordance with 49 C F R §1105.11, is attached hereto as **Exhibit C** and hereby made a part hereof. The original was filed electronically with Anne K. Quinlan, Section of Environmental Analysis (SEA), on December 15, 2008. After filing UP's Combined Environmental and Historic Report on December 15, 2008, the UP received a "No Comment" note from the Regional Environmental Coordinator for the National Park Service Midwest Regional Office. A copy of the No Comment note is attached hereto as **Exhibit D** and hereby made a part hereof.

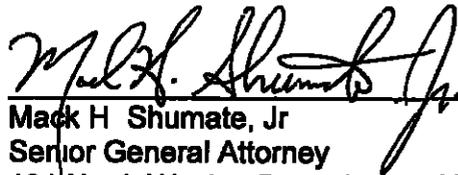
The Wisconsin State Historic Preservation Society has been provided with photographs of each of the structures on the property that are 50 years old or older. A copy of the letter to the State Historic Preservation Society and photographs were attached to the UP's Combined Environmental and Historic Report as **Attachment No. 3**. The Wisconsin Historical Society returned UP's letter and photographs and directed UP to "The Wisconsin NHPA § 106 Review Process" web site for information on submitting projects to the Wisconsin Historical Society. At this time, UP knows of no

historic sites or structures or archeological resources on the Line or in the project area. UP believes that there is nothing in the scope of the project that merits historical comment and that any archeological sites within the scope of the right-of-way would have previously been repeatedly disturbed during the construction and maintenance of the Line. UP will comply with the Wisconsin NHPA § 106 Review Process prior to salvaging those portions of the Line that consist of structures on the Line that are 50 years old or older.

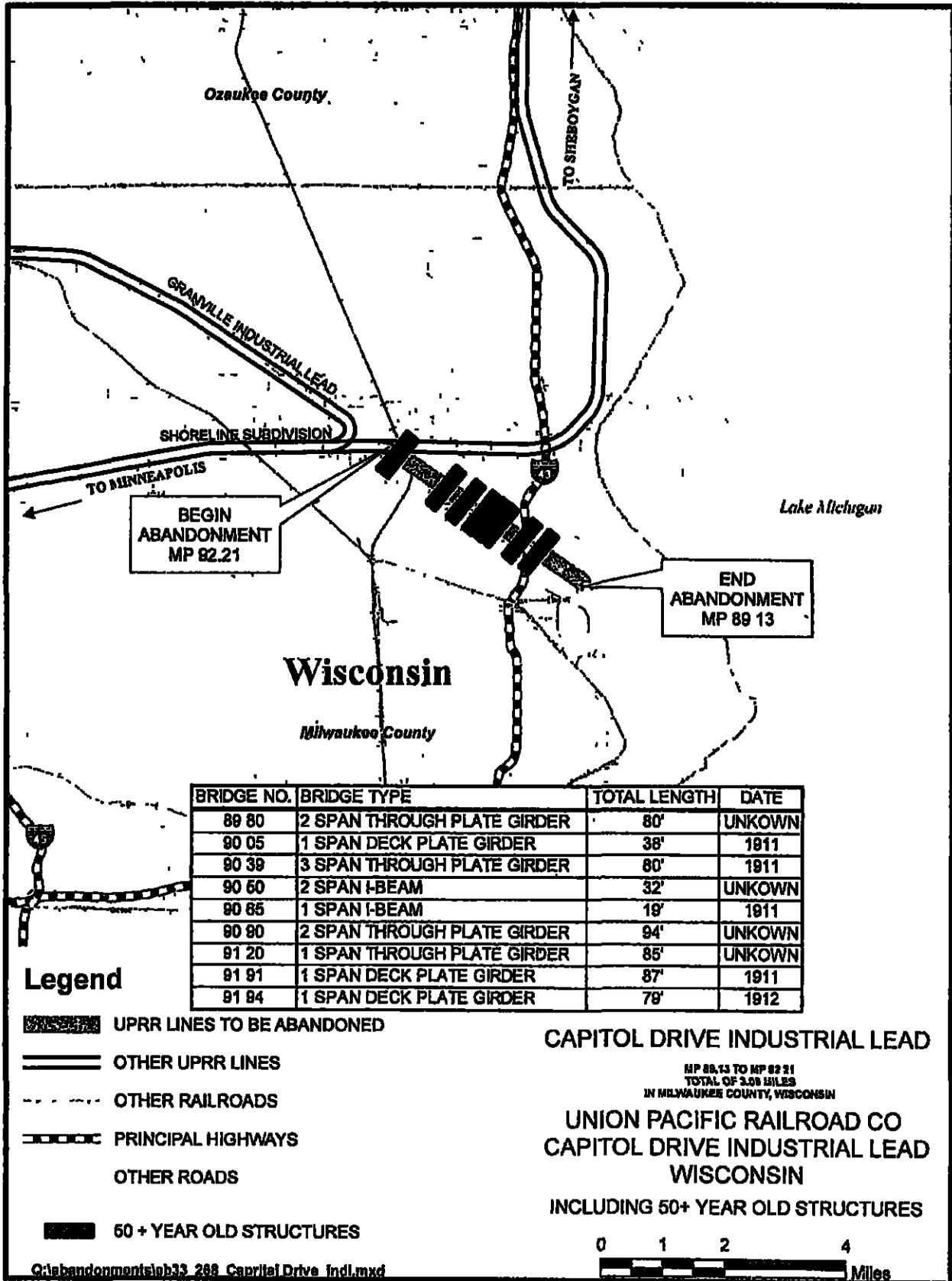
Dated this 20th day of March, 2009

Respectfully submitted,

UNION PACIFIC RAILROAD COMPANY



Mack H. Shumate, Jr.
Senior General Attorney
101 North Wacker Drive, Room 1920
Chicago, Illinois 60606
Tel 312-777-2055
Fax 312-777-2065



**UNION PACIFIC RAILROAD COMPANY
--ABANDONMENT EXEMPTION--
IN MILWAUKEE COUNTY, WISCONSIN
(CAPITOL DRIVE INDUSTRIAL LEAD)**

CERTIFICATE OF SERVICE AND PUBLICATION

49 C.F.R. § 1152.50(d)(1) - Notice

The undersigned certifies that on February 12, 2009 (at least 10 days before a Notice of Exemption is filed), written notice was given of Union Pacific's intent to use the exemption notice procedure to abandon the Capitol Drive Industrial Lead from Milepost 92 21, the Shoreline Connection to the end of the Line at Milepost 89.13, south of Hampton Avenue, a distance of 3.08 miles, in Milwaukee County, Wisconsin in Docket No AB-33 (Sub-No 268X) Written notice (a copy of which is attached) was served on the following:

Wisconsin Public Service Commission
610 North Whitney Way
P O Box 7854
Madison, WI 53707-7854

Regional Environmental Coordinator
National Park Service
Midwest Regional Office
601 Riverfront Drive
Omaha, NE 68102

U S Department of Agriculture
Chief of the Forest Service
4th Floor, N W., Auditors Building
14th St & Independence Ave , S W
Washington, DC 20250

Headquarters, Military Surface
Deployment & Distribution Command
Transportation Engineering Agency
ATTN. SDTE-SA
(Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

49 C.F.R. § 1105.11—Environmental and Historic Report

The undersigned certifies that on December 15, 2008 (at least 20 days before a Notice of Exemption is filed), a Combined Environmental and Historic Report pursuant to 49 C F R §§ 1105 7 and 1105 8 was served in Docket No AB-33 (Sub-No 268X) for

abandonment and discontinuance of the Capitol Drive Industrial Lead in Milwaukee County, Wisconsin on the following

- (1) State Clearinghouse (or alternate)
- (2) State Environmental Protection Agency
- (3) State Coastal Zone Management Agency
- (4) Head of each County
- (5) U S. Environmental Protection Agency (regional office)
- (6) U S. Fish and Wildlife Service
- (7) U S. Army Corps of Engineers
- (8) National Park Service
- (9) U S. Natural Resources Conservation Service
- (10) The National Geodetic Survey
- (11) State Historic Preservation Office

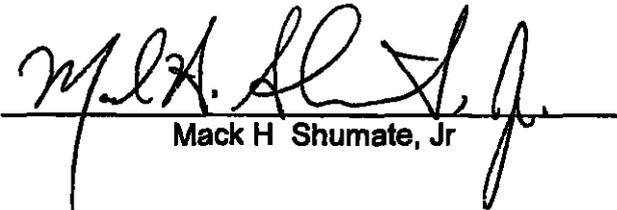
(The Certificate of Service attached to the Combined Environmental and Historic Report lists the names and addresses of the federal, state and local agencies served.)

49 C.F.R. § 1105.12 - Newspaper Notice

The undersigned further certifies that a "Notice of Intent to Abandon" was published in the form prescribed by the Board for a Notice of Exemption. The Notice was published one time in a major newspaper in the county in which the Line is located as follows

<u>County</u>	<u>Newspaper</u>	<u>Date</u>
Milwaukee	Milwaukee Journal Sentinel	March 20, 2009

Dated this 20th day of March, 2009.


Mack H Shumate, Jr



Mack H. Shumate, Jr.
Senior General Attorney, Law Department

February 12, 2009

Wisconsin Public Service Commission
610 North Whitney Way
P.O. Box 7854
Madison, WI 53707-7854

Regional Environmental Coordinator
National Park Service
Midwest Regional Office
601 Riverfront Drive
Omaha, NE 68102

U.S. Department of Agriculture
Chief of the Forest Service
4th Floor, N.W., Auditors Building
14th St. & Independence Ave., S.W.
Washington, DC 20250

Headquarters
Military Surface Deployment & Distribution
Command
Transportation Engineering Agency
ATTN: SDTE-SA
(Railroads for National Defense)
709 Ward Drive, Building 1990
Scott AFB, IL 62225-5357

RE: Abandonment Exemption to Abandon Operations and Discontinue Service over the Capitol Drive Industrial Lead from M.P. 92.21, the Shoreline Connection to the end of the Line at M.P. 89.13 south of Hampton Avenue, a distance of 3.08 miles in Milwaukee County, Wisconsin; STB Docket No. AB-33 (Sub-No. 268X)

Dear Sirs:

This is notice that Union Pacific Railroad Company ("UP") expects to be filing with the Surface Transportation Board ("STB") a Notice of Exemption over the Capitol Drive Industrial Lead from Milepost 92.21, the Shoreline Connection to the end of the Line at Milepost 89.13 south of Hampton Avenue, a distance of 3.08 miles, in Milwaukee County, Wisconsin (the "Line").

The Line traverses U. S. Postal Service Zip Codes 53209, 53211, 53212 and 53217. The proceeding will be docketed as No. AB-33 (Sub-No. 268X).

The Notice of Exemption procedure will be used to abandon the Line, pursuant to the abandonment regulations of the Surface Transportation Board at 49 C.F.R. Section 1152.50. No local traffic has moved over the Line in at least two years and there is no overhead traffic on the Line. A Notice of Exemption will be filed with the Surface Transportation Board on or after February 23, 2009.

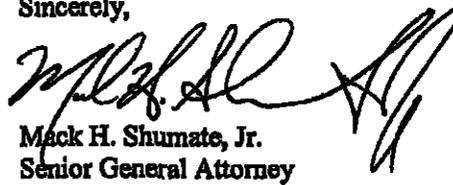
Based on information in our possession, the Line does not contain federally granted rights-of-way. Any documentation in the Railroad's possession will be made available promptly to those requesting it.

February 12, 2009
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AB-33 (Sub-No. 268X)

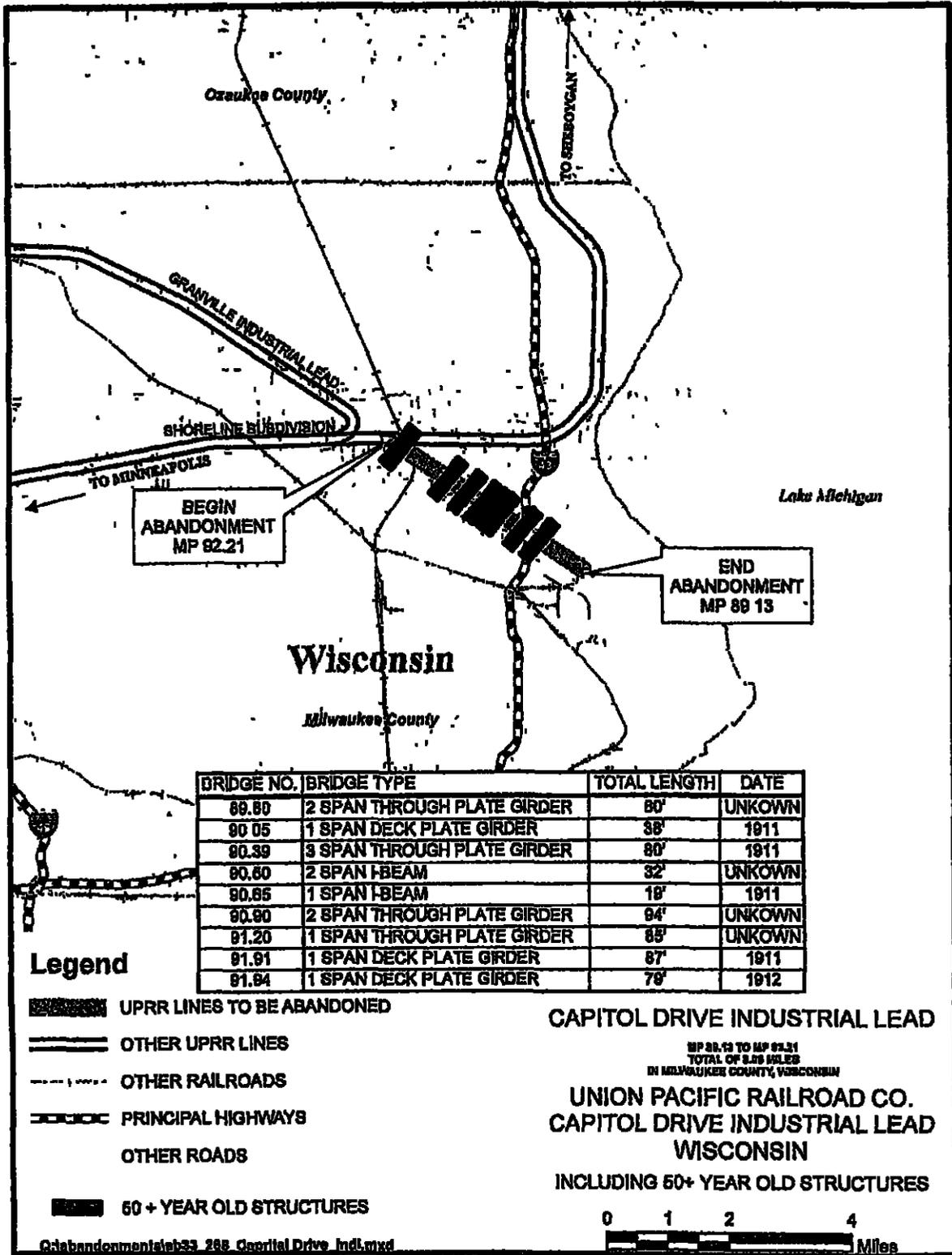
A map showing the Line to be abandoned is attached, for your information as Attachment No. 1.

Sincerely,

A handwritten signature in black ink, appearing to read "Mack H. Shumate, Jr.", written in a cursive style.

Mack H. Shumate, Jr.
Senior General Attorney

Attachment



Re Abandonment Exemption, Capitol Drive Industrial Lead, Milwaukee County, Wisconsin

We have received your letter of December 15, 2008, concerning the above referenced project

- We have no comment on your proposed actions**
- Please address any further correspondence about this project or any project to the following address**

**Regional Environmental Coordinator
National Park Service
Midwest Regional Office
601 Riverfront Drive
Omaha, NE 68102**

Due to limited staff and the number of requests we receive for early coordination, we ask that companies/agencies assume we will have no comments on projects if they have not heard from us within 30 days of our receipt of the request

Thank you,

Regional Environmental Coordinator

RECEIVED

FEB 09 2009

**LAW DEPARTMENT
UNION PACIFIC RR CO.**